



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

SEPTEMBER 28, 2004

PRESENT: Acevedo, Benich, Escobar, Lyle, Mueller, Weston

ABSENT: Engles

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson

Chair Weston called the meeting to order at 7:01 p.m. by asking Ryan Falleman to lead the pledge of allegiance to the flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Weston opened the public hearing.

Chair Weston called attention that the Uniform Building Code (which had been referenced several times in the September 14, 2004 minutes) is not used in California. Instead, the California Building Code (CBC) which was adopted several years ago, is used exclusively. Chair Weston emphasized the uniqueness of the CBC, saying it is different, and giving examples in the areas of structure and adaptability. "In the future, we need to take care to always reference the CBC for work done in the City," Chair Weston announced.

With no one present from the audience wishing to address matters not appearing on the agenda, the public comment opportunity was closed.

MINUTES

SEPTEMBER 14, 2004 COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE THE SEPTEMBER 14, 2004 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

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Page 10, paragraph 4: "Perhaps the unit should be ~~more~~ property maintained," he said.
"Maybe this unit is not getting the proper maintenance."

Page 14, paragraph 2: ~~existing~~ existing

Page 14, paragraph 7, 2nd line: ~~0.5~~ .05

THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES; ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLS.

OLD BUSINESS:

**1) UP-04-09:
JOLEEN-METRO
PCS**

A request for approval of a conditional use permit to allow the installation of a 50-ft tall, 19-in. diameter telecommunications pole and accessory equipment structure on the Morgan Hill Plastics site. Morgan Hill Plastics is located at the southwest corner of E. Dunne Avenue and Joleen Way, at 16885 Joleen Way.

PM Rowe gave the staff report, explaining the location of the proposed installation and the height of the equipment. He said that the conditional use permit indicated that because the pole would be 710 feet from the public thoroughfare at Joleen Way and East Dunne, it would not be clearly visible to the general public. Consequently, no camouflage, such as the flagpole which has been frequently required in the past, was being recommended. PM Rowe then addressed the required findings, speaking to each one. He was particularly distinct in telling the Commissioners that Staff spent considerable time in determining the suitability of location in respect to the distance from the nearby day care center site. PM Rowe emphasized that Staff has found 'no risk of health detriments' to that center. PM Rowe pointed out that Resolution No. 04-88 with revisions was being presented this evening.

PM Rowe explained that the radio frequency emissions issues had been presented to the applicant to address. Data was provided so those numbers were included in the staff report, PM Rowe stated, as he explained that the figures indicate the non-detrimental aspects of the concerns previously noted.

As to *compatibility*, PM Rowe clarified the height of the pole and the distance of the location from the street, as he emphasized that if the installation is more near to Dunne Ave, then Staff would have recommended use of camouflage, but now think the best way is to have 'blending'.

PM Rowe explained that the size of the installation is 'ok for co-locating other facilities, as the pole will be 19-inches in diameter so others can locate on the pole'.

Chair Weston asked how the City will be able to ensure compliance with the conditions listed? PM Rowe responded that all use permits are subject to annual review.

Referencing the proposed Resolution, Commissioner Escobar asked if the findings and conditions listed only apply to this installation? PM Rowe said, "Yes, but we have added a number of Standard Conditions which the Commissioners routinely request, such as the provision for providing 'space' for the City's emergency services communication."

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Chair Weston opened the public hearing.

Noting no persons in the audience who indicated a wish to address the matter, Chair Weston closed the public hearing.

Commissioner Benich informed that in considering this is an application for a 50-foot tower, he did go to Morgan Hill Plastics and talked to personnel. Now, Commissioner Benich said, his only concern is the future co-locations within the pole. Commissioner Benich asked that the following language be included in the Resolution:

f(5) Following the commencement of operations, field tests *shall* be conducted to ensure radio frequency electromagnetic field emissions do not exceed Federal guidelines. The results of the test shall be submitted to the Morgan Hill Planning Department for filing and future reference.

Commissioner Benich explained he feels this could be important, as there could be future additional antennas added to the pole and it is important to have a base line test on record.

Commissioner Acevedo announced that he is not against improving cell service and is not against placement of the communication antennas in the area. "I do think there is a need to establish a policy for stealth and/or disguising these installations. Until we have such a policy, I will vote no on these requests. I do think the proliferation is good for Morgan Hill and will provide better service," Commissioner Acevedo declared as he restated his intent to vote no until a policy has been established.

PM Rowe rejoined that he had been discussing the matter with Commissioner Mueller before the meeting, and relating the research he has completed on the telecommunications issue. PM Rowe said he expects to have a Municipal Code change 'not just a policy, but more formal.' PM Rowe went on to lead discussion regarding other Cities' policies when considering these matters. PM Rowe assured, "We are working on the matter and will bring a recommendation to the Commissioners soon."

Commissioner Acevedo remarked that 'things change' as he explained that Morgan Hill Plastics had been looked at carefully for rezone in the General Plan update. "We struggled," Commissioner Acevedo said, "as to whether to change its zoning and make the current usage non-conforming, since the area will eventually need to change." Commissioner Acevedo said a concern now is that when the change occurs the pole will be more visible then.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 04-88, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE INSTALLATION OF A 50-FOOT TALL, 19-INCH DIAMETER TELECOMMUNICATIONS POLE AND ACCESSORY EQUIPMENT STRUCTURE AT 16885 JOLEEN WAY IN THE ML, LIGHT INDUSTRIAL ZONING DISTRICT, WITH THE FINDINGS AND CONDITIONS SO NOTED WITHIN, AND INCLUDING THE FOLLOWING MODIFICATION:

f(5) Following the commencement of operations, field tests shall be conducted to ensure radio frequency electromagnetic field emissions do

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not exceed Federal guidelines. The results of the test shall be submitted to the Morgan Hill Planning Department for filing and future reference.

COMMISSIONER LYLE SECONDED THE MOTION WHICH PASSED WITH THE FOLLOWING VOTE: AYES; BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: ACEVEDO; ABSTAIN: NONE; ABSENT: ENGLES.

**2) ZAA-03-13:
CITY OF
MORGAN HILL-
ATTACHED
HOUSING
ZONING TEXT
AMENDMENT**

Amending Ordinance 1641 New Series, extending the term for allowing for modified setback dwellings in residential projects due to construction liability insurance issues surrounding ownership attached housing.

PM Rowe gave the staff report, providing an overview and background of the matter, including the amended fence placement requirement. PM Rowe explained the recommendation this evening, including keeping language regarding easements because of 'zero setbacks' as he cited a project of Rocke Garcia's where there would be use of an adjacent property for entry to another property. PM Rowe also pointed out where the changes requested by the Commissioners were contained in the current Resolution being presented.

Commissioner Benich called attention to Exhibit "A", asking about the number of the Ordinance. PM Rowe explained that a new number would be assigned when the matter is considered by the City Council.

Commissioner Benich also called attention to Section 2 with reference to the year 2006, as he asked about the years listed. PM Rowe explained that 2007 is correct and specified why that is to be.

Chair Weston reminded that the reference to 'Uniform Building Codes' in item **g** needs to be modified to California Building Codes.

Chair Weston opened the public hearing.

Rocke Garcia, 100 E 3rd St., thanked the Planning Staff and 'fellow developers' for the work on the Resolution, urging Commissioners to adopt that Resolution.

Ryan Felleman, 15400 Vineyard Blvd., representing South Valley Developers, spoke in favor of the Resolution.

With no others present to address the matter, the public hearing was closed.

COMMISSIONER MUELLER, NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, OFFERED RESOLUTION NO. 04-85, RECOMMENDING EXTENDING AND MODIFYING ORDINANCE 1641, ALLOWING MODIFIED SETBACK DWELLINGS IN RESIDENTIAL PROJECTS DUE TO CONSTRUCTION LIABILITY INSURANCE ISSUES SURROUNDING OWNERSHIP OF ATTACHED HOUSING. THE MOTION, WHICH WAS SECONDED BY COMMISSIONER ESCOBAR AND PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES WAS ABSENT.

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ANNOUNCEMENTS:

PM Rowe reported that the City Council at their last meeting considered the General Plan amendment request by TBI, which had been heard by the Commissioners with recommendation to the Council. In considering the matter the Council had made the modifications which PM Rowe detailed: the applicant had asked - under permitted uses - for drugstores, wine tasting facilities, and arts and crafts stores. The Council granted the request for drugstores, but did not agree with the wine tasting or arts and crafts stores. Conversely, the Council included gas/service stations under conditional uses. Under permitted Uses, PM Rowe reminded, the Planning Commissioners had recommended a cap of 15,000 sf (for specialty stores, such as grocery stores); however the City Council voted that 15,000 sf could be a minimum, with an allowance up to 50,000 sf. cc – less than 50,000 sf, but more than 15,000 sf, but still requires use permit

In the matter of Butterfield South Valley Developers, the City Council approved the amendment by the Commissioners dealing with the revised traffic pattern mitigation. PM Rowe explained that the applicant presented a variation of the plan to the Council but the end result was not different from that approved by the Commissioners. Commissioner Lyle asked, “If the City still does have a provision if the use is changed over the initial request, will a new traffic study be required?” [Yes]

As to the Cochrane Assisted Living Center, the Council members approved the site plan and development guidelines, PM Rowe reported.

Commissioner Acevedo announced a special event coming to the City at the Aquatic Center: In conjunction with Walt Disney Entertainment, A Swim with the Olympian Winners will be held Thursday night. Commissioner Acevedo listed the recent Olympic swim winners who will be here swimming with selected local participants as he urged attendance.

COMMISSIONERS INTEREST ITEMS

Commissioner Benich asked if Staff has any idea how many applicants there will be for allocations in the upcoming Measure C competition? PM Rowe explained that a workshop has been set for those interested applicants/developers, but that Staff has not prepared a ‘breakdown by category’ to date. He said that the Commissioners could expect to review about 25 applications all together. PM Rowe then cautioned that the number of applications do not reflect the requests for allocations, which will be a much greater number.

ADJOURNMENT:

With no further business to be considered by the Commissioners, Chair Weston adjourned the meeting at 7:32 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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